

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN ARTURO GONZALES,

PLAINTIFF,

v.

CASE NO. 08-14547

COMMISSIONER OF SOCIAL SECURITY, HONORABLE SEAN F. COX

DEFENDANT.

ORDER

ACCEPTING AND ADOPTING REPORT & RECOMMENDATION

Plaintiff brought this action under 42 U.S.C. §405(g) challenging a final decision of Defendant Commissioner denying his application for benefits. Thereafter, Defendant filed a Motion to Remand and Plaintiff filed a response to that motion. The Motion to Remand was referred to Magistrate Judge Mona K. Majzoub pursuant to 28 U.S.C. §636(b)(1)(B) & (C). On October 8, 2009, Magistrate Judge Majzoub issued her R&R which recommends that Defendant's Motion to Remand be granted.

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within ten (10) days after being served with a copy of the R&R. "The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made." *Id.*

The time for filing objections to the R&R has expired and the docket reflects that neither party has filed no objections to the R&R.

The Court hereby **ADOPTS** the October 8, 2009 R&R. **IT IS ORDERED** that

Defendant's Motion for Remand is **GRANTED IN PART** and this action is remanded pursuant to sentence six of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). The Court **ORDERS** that the instant case be remanded to the Appeals Council to allow the Appeals Council an additional 45 days to locate the missing recording(s) of Plaintiff's July 6, 2007 hearing. If the complete recording(s) is located, the certified administrative record will be prepared. If the complete recording is not located within 45 days, the Appeals Counsel will remand the case to an Administrative Law Judge to hold a *de novo* hearing and issue a new decision.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: October 28, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 28, 2009, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager